

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

JAMES H. CLARK,)	
)	
v.)	Civil Action
)	No. 09-3262-CV-S-RED-H
UNITED STATES OF)	
AMERICA,)	
Respondent.)	

REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Petitioner, an inmate formerly confined in the United States Medical Center for Federal Prisoners, petitions this Court for a writ of habeas corpus in which he challenges his confinement. The petition has been referred to the undersigned for preliminary review under 28 U.S.C. § 636(b). Because the petition is not properly before this Court, it will be recommended that he be denied leave to proceed in forma pauperis.

As grounds for relief in habeas corpus, petitioner alleges that he is illegally in custody, and that he is entitled to release because he has recovered his sanity.

A review of the file and records in the case indicates that petitioner was committed to the custody of the Attorney General, pursuant to 18 U.S.C. § 4246, by the United States District Court for the Middle District of Tennessee. Regardless of petitioner’s assertions, the law is clear that issues relating to his commitment must be resolved by the committing court. Archuleta v. Hedrick, 365 F.3d 644 (8th Cir. 2004). Accordingly, because this case is not properly before this Court, it must be recommended that the petition herein for writ of habeas corpus be dismissed without prejudice.

Counsel for the petitioner has filed a Motion to Withdraw. Because there are no issues presented for which relief is appropriate, the motion is granted.¹

For the foregoing reasons, it is, pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri,

RECOMMENDED that petitioner be denied leave to proceed in forma pauperis and that the petition herein for a writ of habeas corpus be dismissed without prejudice.

/s/ James C. England
JAMES C. ENGLAND
Chief, United States Magistrate Judge

Date: 10/21/09

¹ Petitioner has 10 days to file exceptions to the Report and Recommendation of the United States Magistrate Judge.